

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:10-cr-185

v.

HON. JANET T. NEFF

JOSHUA THEO SMITH,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Joshua Theo Smith has filed a motion for modification or reduction of sentence (Dkt 94) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department has filed a Sentence Modification Report (Dkt 102) finding Defendant eligible for the reduction. Defendant has filed a Response (Dkt 104) agreeing with Probation, but the Government has also filed a Response (Dkt 105) objecting to the recommended reduction.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Sentence Modification Report (Dkt 102), and the Defendant's and the Government's responses (Dkts 104, 105), the Court has determined that the defendant is

eligible for a reduction of sentence according to the policy statements of the U.S. Sentencing Commission.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 94) pursuant to 18 U.S.C. § 3582(c)(2) is GRANTED. Defendant's sentence is reduced to a term of 80 months imprisonment with an effective date of November 1, 2015.

DATED: October 13, 2015

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge